

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**June 25, 2002**

**IN RE:**

**PETITION OF UNITED CITIES GAS COMPANY  
FOR APPROVAL OF A TRANSPORTATION  
GAS SERVICE AGREEMENT WITH SUPERIOR  
INDUSTRIES INTERNATIONAL**

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**DOCKET NO.  
00-01022**

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**ORDER ACCEPTING SETTLEMENT AGREEMENT AND APPROVING  
TRANSPORTATION GAS SERVICE AGREEMENT**

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This matter came before the Tennessee Regulatory Authority (the "Authority") at a regularly scheduled Authority Conference held on April 30, 2002, for consideration of a settlement agreement relative to United Cities Gas Company's ("United Cities") Petition ("United Cities' Petition") for Approval of a Transportation Gas Service Agreement (the "Service Agreement") with Superior Industries International, Inc. ("Superior").

**Background**

United Cities' Petition, filed on November 13, 2000, states that Superior informed United Cities of its intent to install a pipeline from its Johnson City, Tennessee facilities to the East Tennessee Natural Gas Pipeline (the "Pipeline"), which is located approximately one mile from Superior, to bypass United Cities' distribution system and service Superior's facilities directly from the Pipeline. United Cities' Petition states that United Cities has determined that the proposed bypass is both an economically feasible and operationally viable option for Superior.

United Cities' Petition states that in response to the proposed bypass, United Cities negotiated a rate structure that would keep Superior as a long term customer and negate the need

for a bypass. United Cities agreed to Superior's demand that the negotiated rate become effective November 1, 2000, subject to Authority approval. United Cities' Petition further states that United Cities is seeking and is entitled to recover from its ratepayers up to ninety percent (90%) of any margin loss to United Cities as a result of the negotiated rate with Superior.

On March 12, 2001, the Consumer Advocate and Protection Division of the Office of Attorney General (the "Consumer Advocate") filed a Petition to Intervene (the "Consumer Advocate's Petition"). The Consumer Advocate's Petition states that the Consumer Advocate "wants to ensure that UCG's rate of return is not improperly impacted by improper application of established rate schedules."<sup>1</sup> The Consumer Advocate specifically objected to United Cities' request for a ninety percent (90%) margin loss recovery.<sup>2</sup>

In an Order dated April 17, 2001, the Authority convened a contested case proceeding in this matter, granted the Consumer Advocate's Petition, and appointed the General Counsel or his designee to act as a Pre-Hearing Officer to hear preliminary matters prior to a Hearing and to set a procedural schedule to completion.

### **The Notice of Settlement Agreement**

On April 12, 2002, United Cities filed a *Notice of Settlement Agreement Between United Cities Gas Company and the Consumer Advocate and Protection Division* (the "Notice"). The Notice states that United Cities and the Consumer Advocate have entered into a settlement agreement and further states:

In accordance with the terms of the settlement agreement, United Cities is hereby restating its request for recovery under the margin loss recovery rider of its tariff to 50% of the margin loss resulting from the reduced-rate structure in the transportation service agreement between it and Superior

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<sup>1</sup> *Petition to Intervene*, Docket No. 00-01022, March 12, 2001, p. 1.

<sup>2</sup> On March 21, 2001, United Cities filed a Response to the Consumer Advocate's Petition, in which United Cities disputes the Consumer Advocate's claim that United Cities is not entitled to any margin loss recovery and maintains that it is permitted under the Margin Loss Recovery Rider to recover not more than ninety percent (90%) of the gross profit margin losses that will result from the Agreement.

Industries. In turn, the Attorney General has agreed to withdraw his objection to the approval of the transportation gas service agreement at issue.<sup>3</sup>

The Settlement Agreement Between United Cities Gas Company and the Consumer Advocate and Protection Division (the "Settlement Agreement"), a copy of which is attached to the Notice as Exhibit A, is consistent with the above statement.

### **Findings and Conclusions**

Upon careful consideration of United Cities' Petition, the Settlement Agreement, and the entire record in this matter, the Authority finds that an equal sharing between United Cities and its ratepayers of the lost margin resulting from the Service Agreement with Superior will not materially affect United Cities' rate of return. Allowing a 50%/50% margin loss recovery will reward United Cities for its efforts to retain this customer. At the same time, this equal sharing of the lost margin will avoid creation of an additional burden on United Cities' other ratepayers. Additionally, approval of the Service Agreement will allow Superior, a large firm with many plants that serve domestic and foreign automobile manufacturers, to remain competitive and contribute to the prosperity of the area where it is located.

Accordingly, at the April 30, 2002 Authority Conference, the Directors of the Authority voted unanimously to accept the Settlement Agreement between United Cities and the Consumer Advocate and to approve United Cities' Petition, subject to the modifications stated in the Settlement Agreement.

### **IT IS THEREFORE ORDERED THAT:**

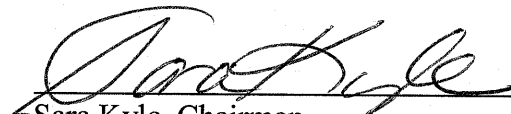
1. The Settlement Agreement between United Cities Gas Company and the Consumer Advocate and Protection Division of the Office of Attorney General is accepted;

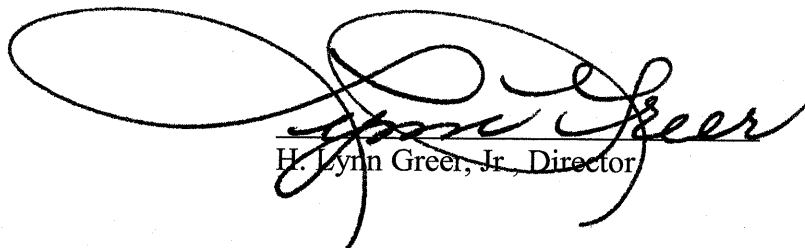
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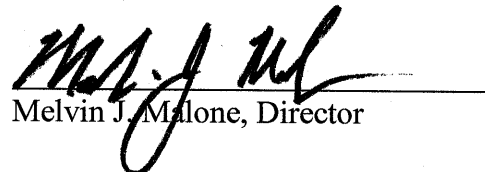
<sup>3</sup> Notice of Settlement Agreement Between United Cities Gas Company and the Consumer Advocate and Protection Division, April 12, 2002, p. 1.

2. The Petition of United Cities Gas Company for Approval of a Transportation Gas Service Agreement with Superior Industries International, Inc. is approved, subject to the modifications stated in the Settlement Agreement; and

3. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary